

IN THE
SUPREME COURT
OF THE
United States

No. 366.

22

OCTOBER TERM, 1923.

THE STATE OF WASHINGTON,
Plaintiff in Error,
v.
W. C. DAWSON & COMPANY, a corpora-
tion, *Defendant in Error.*

WRIT OF ERROR TO THE SUPREME COURT
OF THE STATE OF WASHINGTON.

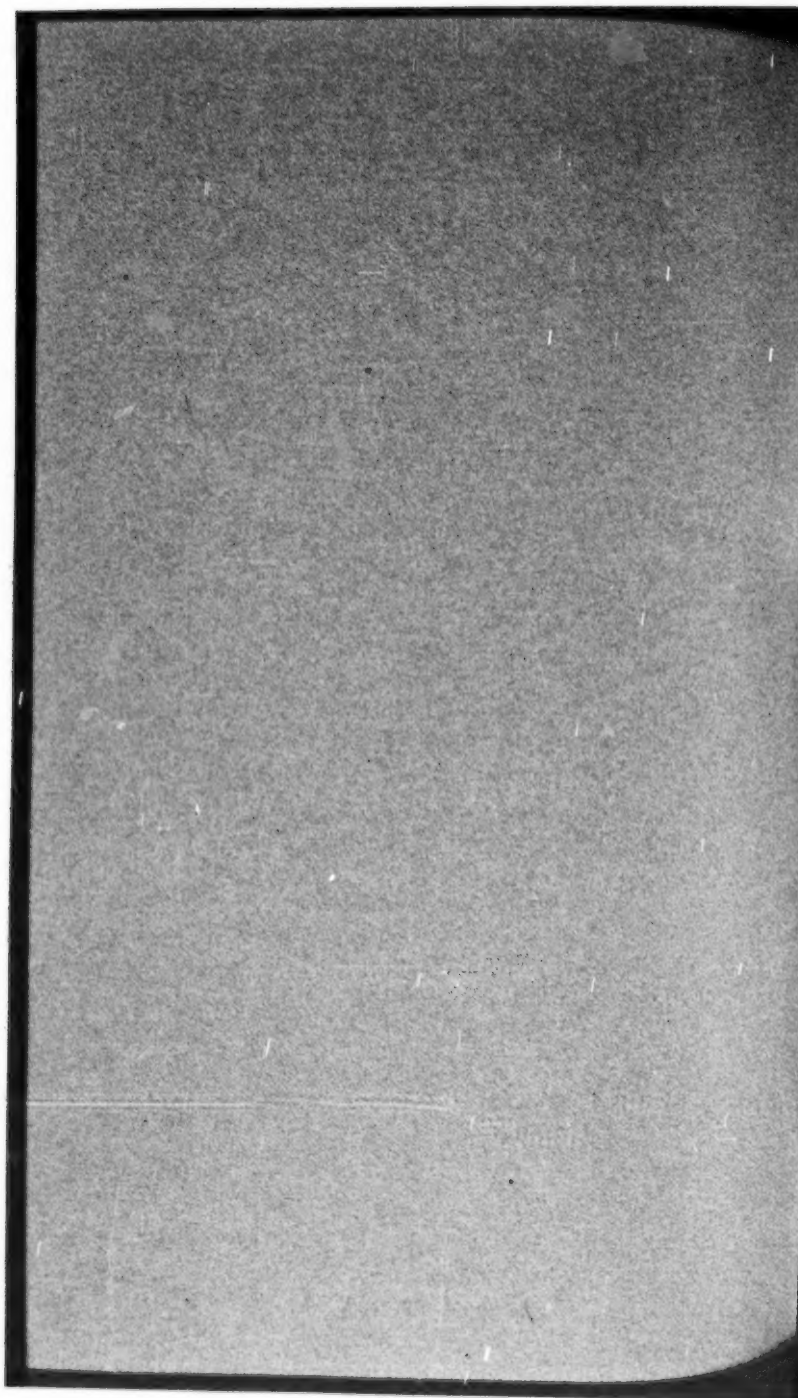
MOTION TO ADVANCE

THE STATE OF WASHINGTON,
JOHN H. DUNBAR,
Attorney General.

RAYMOND W. CLIFFORD,
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Attorneys for Plaintiff in Error.

GUIE & HALVERSTADT,
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Office and Postoffice Address:
Temple of Justice, Olympia, Wash.



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The plaintiff in error, The State of Washington, moves that this case be advanced for hearing upon the October Term, 1923, of the Supreme Court of the United States, for the following reasons:

This action was instituted by The State of Washington for the purpose of collecting premiums upon the payroll of stevedores employed by W. C.

Dawson & Company, a corporation. Stevedores were expressly placed under the provisions of the workmen's compensation acts of the several states by virtue of the amendments to clause 3, of sections 24 and 256 of the Judicial Code, which was passed on June 10, 1922, 42 Stat. 634, which reads as follows:

"The district courts shall have original jurisdiction as follows:

"Of all civil causes of admiralty and maritime jurisdiction, saving to suitors in all cases the right of a common-law remedy where the common law is competent to give it, and to claimants for compensation for injuries to or death of persons other than the master or members of the crew of a vessel their rights and remedies under the workmen's compensation law of any State, District, Territory, or possession of the United States, which rights and remedies when conferred by such law shall be exclusive: of all seizures on land or waters not within admiralty and maritime jurisdiction; of all prizes brought into the United States; and of all proceedings for the condemnation of property taken as prize: Provided, That the jurisdiction of the district courts shall not extend to causes arising out of injuries to or death of persons other than the master or members of the crew, for which compensation is provided by the workmen's compensation law of any State, District, Territory, or possession of the United States."

"Of all civil causes of admiralty and maritime jurisdiction, saving to suitors in all cases the right of a common-law remedy where the common law is competent to give it, and to claimants for compensation for injuries to or death of persons other than the master or members of the crew of a vessel their rights and remedies under the workmen's compensation law of any State, District, Territory, or possession of the United States."

The supreme court of the state of Washington held that this statute was unconstitutional and this writ of error was taken to the Supreme Court of the United States from this decision, and the only question involved in this case is the constitutionality of the statute quoted *supra*. Approximately 250 claims have been filed with the Department of Labor and Industries of the State of Washington by stevedores who have been injured while engaged in their occupations, and included therein are about seven or eight death claims. It is obvious that the constitutionality of this statute can never be definitely ascertained until a ruling is secured on this question from the Supreme Court of the United States. For this reason the claims filed with the Department of Labor and Industries have neither been rejected nor allowed, but held in suspension pending this appeal. This leaves the whole matter of the rights of stevedores to compensation for injuries in a chaotic condition, as the stevedores do not know whether their proper remedy is an action against the employer in the Federal courts, or whether they are entitled to compensation under the workmen's compensation act. It also makes it extremely difficult to administer the workmen's compensation act of this state, as the Department of Labor and Industries is not in a position to either allow or reject such claims until the constitutionality of this statute is finally determined. It is therefore contended that this is a matter impressed with a public interest, and that the public

welfare demands a speedy determination of this question.

What is said herein concerning the state of affairs existing in the State of Washington is also, no doubt, true in every state in the Union which has a workmen's compensation act, and which has navigable waters within its boundaries. We are not advised whether or not there are any other appeals pending in the Supreme Court of the United States involving this precise question. This question was decided in the case of *Farrell v. Waterman S. S. Co.*, 286 Fed. 284, but we have no information as to whether or not this case has been appealed.

Plaintiff in error therefore respectfully urges that this motion be granted.

The State of Washington
 John H. Dunbar
 Attorney General
 Raymond W. Clifford
 Asst. Atty. General

Attorney for Plaintiff in
 Error

Yusef Halverstad
 Of Counsel

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PLEASE TAKE NOTICE that on Monday, October 1, 1923, at 12:00 o'clock, noon, or as soon thereafter as counsel may be heard, The State of Washington, plaintiff in error, will submit to the Supreme Court of the United States, a motion, a copy of which is attached hereto, petitioning said Court to advance the above entitled cause for hearing.

Dated September 1, 1923.

THE STATE OF WASHINGTON,
JOHN H. DUNBAR,
Attorney General.

RAYMOND W. CLIFFORD,
Assistant Attorney General.

Attorneys for Plaintiff in Error.

GUIE & HALVERSTADT,
Of Counsel.

To:
Cosgrove & Terhune,
Attorneys for Defendant in Error,
Seattle, Washington.

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Consent is hereby given to the advancement of
this case for hearing on the October Term, 1923, of
the Supreme Court of the United States.

Dated September 1, 1923.

Cosgrove & Terhune
Attorneys for Defendant in Error.